

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

STRYKER CORPORATION, et al.,

Plaintiffs,

File No. 4:01-CV-157

v.

HON. ROBERT HOLMES BELL

XL INSURANCE AMERICA, formerly
known as WINTERTHUR INTERNATIONAL
AMERICA INSURANCE COMPANY,

Defendant.

MEMORANDUM OPINION AND ORDER

This matter is before the Court on Plaintiffs' motion for relief from order and to supplement the record (Docket #816). Plaintiffs request that the Court correct an error in the July 14, 2006 Opinion (Docket #813). Plaintiffs contend that the Court incorrectly stated that Plaintiffs did not raise before the Magistrate Judge the issue of whether Defendant's refusal to defend Plaintiffs in the underlying suit renders the issue of whether bodily injury occurred in 2000 moot. Defendant has concurred in part in this motion. The Court has reviewed Plaintiffs' motion and accompanying brief, as well as Defendant's response brief. Based upon the concurrence of the parties, it appears that this issue was raised before the Magistrate Judge. Accordingly, the Court withdraws any finding contained in the July 14, 2006 Opinion that Plaintiffs failed to raise this issue before the Magistrate Judge or otherwise waived this issue.

Because the parties concur that Plaintiffs properly raised this issue before the Magistrate Judge, there is no need to supplement the record with Plaintiff's letters to the Magistrate Judge. Accordingly,

IT IS HEREBY ORDERED that Plaintiffs' motion for relief from order and to supplement the record (Docket #816) is **GRANTED IN PART** and **DENIED IN PART**.

Date: August 10, 2006

/s/ Robert Holmes Bell
ROBERT HOLMES BELL
CHIEF UNITED STATES DISTRICT JUDGE